IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF AUGUST
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

WRIT PETITION No.20400 OF 1995

Between:

Khaja Moinuddin and 8 others.

..... PETITIONERS

AND

The Government of Andhra Pradesh,
Rep. by its Secretary, Minorities Welfare
(Wakf-1) Department, Secretariat Bldgs.,
Hyderabad, and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR

WRIT PETITION No.20400 OF 1995

O R D E R

This writ petition is filed with a prayer as follows:

> **"Hon'ble Court may be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Certiorari, calling for the records relating to G.O.Ms.No.57, Minorities Welfare (Wakf-1) Department dated 22.5.1995 and quash the same as illegal and as such null and void, and consequently to recognize and allow the 1st petitioner herein to be the Khaji of Pargi Taluk, Rangareddy District, and pass …"**

The petitioners challenge the appointment of the 4th respondent as the Khazi of Pargi Taluk. The 4th respondent was appointed as such by G.O.Ms.No.57, Minorities Welfare (Wakf-1) Department, dated 22.5.1995.

The only submission made by the learned counsel for the petitioners is that under Section 2 of Kazis Act, 1880 (Act 12 of 1980), the State Government is empowered to appoint Khazis for such local area after consulting the principal Mohammadan residents of such local area, and appoint one or more than fit persons to be the Kazis of that local area.

The affidavit filed in support of the writ petition it is stated as follows:

> **"… The Collector, in turn, by his letter No.B3/4191/92 dated 17.6.1992 directed the Mandal Revenue Officer, Pargi Mandal to get the matter**

enquired into and also to consult the Principal Mohammadans of the local area and submit a detailed report. The Mandal Revenue Officer, in turn, directed the Mandal Revenue Inspector recorded the sworn statements of the prominent Muslims of Pargi village, viz., (1) Syed Sharfuddin; (2) Mohd. Galib; (3) Shaik Mahaboob; (4) Mir Mahmood Ali; (5) Kareemuddin; (6) Syed Mustaq; (7) Rahimuddin; (8) Iqbal Hussain; (9) M.A.Salem; (10) Khadeer (11) Fakir Mohammad; (12) Gore Mian; (13) Akbar; (14) Waheed Sabu and (15) Noor Mohammed. All the above persons have uniformly stated that my late father, Kihaji Nizamuddin, S/o.Late Khaji Mohd. Yousuf was the Khaji of Pargi Taluk for several years till he died, and that ever since his death, I have been performing the duties of Khaji of Pargi Taluk. They have also testified that none of the brothers of Khaji Nizamuddin lived in Pargi on account of their Government service, and they relinquished the Khazzath of Pargi in favour of my father, Khaji Nizamuddin. All the above persons unanimously are of the opinion that my appointment as Khaji of Pargi is just and proper."

Inspite of the pendency of the matter for eleven long years on the file of this Court, neither the 1st respondent nor the 2nd respondent chose to file counter-affidavit rebutting the allegations made in the writ petition nor the record is produced to establish that an appropriate enquiry was conducted as contemplated under the Act. Though 4th respondent filed a counter-affidavit, the averments made therein are self-serving and the truth of the same cannot be verified without reference to the record of the Government. The pathetic situation is that no counter-affidavit is filed nor the Government Pleader is present in the Court when the matter is called. The Assistant Government Pleader who represents has no idea of the subject matter of the writ petition.

In the circumstances, this Court has no option, but to allow the writ petition by accepting the allegations made in the affidavit filed in support of the writ petition.

Accordingly, the writ petition is allowed with costs quantified at Rs.5,000/- payable to the credit of A.P. State Legal Services Authority, City Civil Court Buildings, Hyderabad, within a period of four weeks.

JUSTICE J.CHELAMESWAR

22nd AUGUST, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR

WRIT PETITION No.20400 OF 1995

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